

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SERAIAH BEN YISRAEL

Plaintiff,

v.

JO ANN B. BARNHART,
Commissioner of Social Security

Defendant.

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CIVIL ACTION NO. 02-4059

ORDER

AND NOW, this day of ,2002,

upon consideration of Defendant's Motion for an Extension of Time to respond to Plaintiff's
Complaint, it is hereby

ORDERED

that the time for defendant's response to plaintiff's complaint is hereby extended for 30 days until
January 27, 2003.

BY THE COURT:

J.

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CIVIL ACTION NO. 02-4059

**DEFENDANT'S MOTION FOR AN EXTENSION
OF TIME TO RESPOND TO PLAINTIFF'S COMPLAINT**

Defendant, Jo Anne B. Barnhart, Commissioner of Social Security Administration (SSA), by her attorneys Patrick L. Meehan, United States Attorney for the Eastern District of Pennsylvania and Nicholas Cerulli, Special Assistant United States Attorney for the same District, hereby moves the Court for an extension of time within which to file her Answer or otherwise respond to plaintiff's complaint and assigns the following reasons in support thereof:

1. Plaintiff's Complaint was served upon Counsel for defendant on August 27, 2002.
2. A copy of plaintiff's complaint was forwarded promptly to SSA for its review.
3. Pursuant to 42 U.S.C. § 405(g) defendant is required to file a certified copy of the administrative transcript as part of his Answer to plaintiff's Complaint.
4. Despite a first extension of time to file, and after consultation with SSA, we were informed that the Administrative Audio Tapes are still being retrieved and will then have to be reproduced.

WHEREFORE, defendant respectfully requests a 30 day extension of time in which to file a response to plaintiff's complaint.

Respectfully submitted,

PATRICK L. MEEHAN
UNITED STATES ATTORNEY

NICHOLAS CERULLI, Esq., Special
Assistant United States Attorney
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CIVIL ACTION NO. 02-4059

BRIEF IN SUPPORT OF DEFENDANT'S
MOTION FOR AN EXTENSION OF TIME
TO RESPOND TO PLAINTIFF'S COMPLAINT

As set forth in 42 U.S.C. § 405(g), in an action filed pursuant to Titles II and XVI of the Social Security Act (42 U.S.C. §§ 405(g) and 1383(c)(3)):

As part of [his] answer the Secretary of [the Department of Health and Human Services] shall file a certified copy of the transcript of the record including the evidence upon which the findings and decisions complained of are based. (emphasis added).

As set forth in defendant's Motion for Extension of Time to Answer Complaint, defendant has been unable to prepare a certified copy of the transcript of the record in this case, and defendant therefore has not been able to file an Answer or otherwise respond to plaintiff's Complaint.

Defendant is making every effort to obtain the transcript, however, in the meantime she respectfully requests an enlargement of time within which to file her Answer to the Complaint. See Fed.R.Civ.P. 6(b).

Respectfully submitted,

PATRICK L. MEEHAN
UNITED STATES ATTORNEY

NICHOLAS CERULLI, Esq., Special
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CERTIFICATION

_____I hereby certify that on December 26, 2002, I, Nancy Carrieri, a member of the United States Attorney's Office, attempted to contact pro se plaintiff to request consent to the foregoing Motion for an Extension of Time. I was unable to reach Pro se plaintiff by telephone. As of the date of the filing of this Motion, the United States Attorney's Office has not been able to speak with pro se plaintiff as to whether or not this motion will be contested.

NANCY CARRIERI
Paralegal Specialist

CERTIFICATE OF SERVICE

I do hereby certify that service of the within Defendant's Motion for an Extension of Time to Respond to Plaintiff's Complaint was made upon:

Seraiah Ben Yisrael, pro se plaintiff
6335 Carnation Street
Apt. B
Philadelphia, PA 19144

by mailing a true and correct copy thereof, postage prepaid via the United States Mails on this
26th day of December, 2002.

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